

4307

2013-2014 Regular Sessions

I N S E N A T E

March 20, 2013

Introduced by Sen. MARCELLINO -- (at request of the Department of Taxation and Finance) -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law and the administrative code of the city of New York, in relation to suspending the income tax refund statute of limitations for individuals due to financial disability

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subsection (k) of section 687 of the tax law is relettered
2 subsection (l) and a new subsection (k) is added to read as follows:

3 (K) RUNNING OF PERIODS OF LIMITATION SUSPENDED WHILE TAXPAYER IS
4 UNABLE TO MANAGE FINANCIAL AFFAIRS DUE TO DISABILITY. -- (1) IN THE CASE
5 OF AN INDIVIDUAL TAXPAYER, THE RUNNING OF THE PERIODS SPECIFIED IN
6 SUBSECTIONS (A), (B), AND (C) OF THIS SECTION SHALL BE SUSPENDED DURING
7 ANY PERIOD OF SUCH INDIVIDUAL'S LIFE THAT SUCH INDIVIDUAL IS FINANCIALLY
8 DISABLED. FOR PURPOSES OF THIS SUBSECTION, AN INDIVIDUAL TAXPAYER IS AN
9 INDIVIDUAL WHO IS SUBJECT TO ANY STATE OR LOCAL PERSONAL INCOME TAX OR
10 SURCHARGE ADMINISTERED BY THE COMMISSIONER.

11 (2) FOR PURPOSES OF PARAGRAPH ONE OF THIS SUBSECTION, AN INDIVIDUAL
12 TAXPAYER IS FINANCIALLY DISABLED IF SUCH INDIVIDUAL IS UNABLE TO MANAGE
13 HIS OR HER FINANCIAL AFFAIRS BY REASON OF A MEDICALLY DETERMINABLE PHYS-
14 ICAL OR MENTAL IMPAIRMENT OF THAT INDIVIDUAL WHICH CAN BE EXPECTED TO
15 RESULT IN DEATH OR WHICH HAS LASTED OR CAN BE EXPECTED TO LAST FOR A
16 CONTINUOUS PERIOD OF NOT LESS THAN TWELVE MONTHS. AN INDIVIDUAL SHALL
17 NOT BE CONSIDERED TO HAVE SUCH AN IMPAIRMENT UNLESS PROOF OF THE EXIST-
18 ENCE THEREOF IS FURNISHED IN SUCH FORM AND MANNER AS THE COMMISSIONER
19 MAY REQUIRE.

20 (3) AN INDIVIDUAL TAXPAYER SHALL NOT BE TREATED AS FINANCIALLY DISA-
21 BLED DURING ANY PERIOD THAT SUCH INDIVIDUAL'S SPOUSE OR ANY OTHER PERSON
22 IS AUTHORIZED TO ACT ON BEHALF OF SUCH INDIVIDUAL IN FINANCIAL MATTERS.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD09096-01-3

1 S 2. Subdivision (k) of section 11-1787 of the administrative code of
2 the city of New York is relettered subdivision (l) and a new subdivision
3 (k) is added to read as follows:

4 (K) RUNNING OF PERIODS OF LIMITATION SUSPENDED WHILE TAXPAYER IS
5 UNABLE TO MANAGE FINANCIAL AFFAIRS DUE TO DISABILITY. (1) IN THE CASE OF
6 AN INDIVIDUAL TAXPAYER, THE RUNNING OF THE PERIODS SPECIFIED IN SUBDIVI-
7 SIONS (A), (B), AND (C) OF THIS SECTION SHALL BE SUSPENDED DURING ANY
8 PERIOD OF SUCH INDIVIDUAL'S LIFE THAT SUCH INDIVIDUAL IS FINANCIALLY
9 DISABLED. FOR PURPOSES OF THIS SUBDIVISION, AN INDIVIDUAL TAXPAYER IS AN
10 INDIVIDUAL WHO IS SUBJECT TO THE TAX IMPOSED UNDER THIS CHAPTER.

11 (2) FOR PURPOSES OF PARAGRAPH ONE OF THIS SUBDIVISION, AN INDIVIDUAL
12 TAXPAYER IS FINANCIALLY DISABLED IF SUCH INDIVIDUAL IS UNABLE TO MANAGE
13 HIS OR HER FINANCIAL AFFAIRS BY REASON OF A MEDICALLY DETERMINABLE PHYS-
14 ICAL OR MENTAL IMPAIRMENT OF THAT INDIVIDUAL WHICH CAN BE EXPECTED TO
15 RESULT IN DEATH OR WHICH HAS LASTED OR CAN BE EXPECTED TO LAST FOR A
16 CONTINUOUS PERIOD OF NOT LESS THAN TWELVE MONTHS. AN INDIVIDUAL SHALL
17 NOT BE CONSIDERED TO HAVE SUCH IMPAIRMENT UNLESS PROOF OF THE EXISTENCE
18 THEREOF IS FURNISHED IN SUCH FORM AND MANNER AS THE COMMISSIONER OF
19 TAXATION AND FINANCE MAY REQUIRE.

20 (3) AN INDIVIDUAL TAXPAYER SHALL NOT BE TREATED AS FINANCIALLY DISA-
21 BLED DURING ANY PERIOD THAT SUCH INDIVIDUAL'S SPOUSE OR ANY OTHER PERSON
22 IS AUTHORIZED TO ACT ON BEHALF OF SUCH INDIVIDUAL IN FINANCIAL MATTERS.

23 S 3. This act shall take effect immediately and shall apply to periods
24 of financial disability commencing before, on, or after the date this
25 act shall have become a law, but shall not apply to any claim for credit
26 or refund that (without regard to this act) is barred by the operation
27 of any law or rule of law (including res judicata) as of the date this
28 act shall have become a law.